

House File 75 - Introduced

HOUSE FILE 75
BY WINDSCHITL

A BILL FOR

1 An Act relating to the disposition of legal firearms and
2 ammunition seized by a law enforcement agency.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 809.5, subsection 1, paragraph f,
2 subparagraph (3), Code 2013, is amended to read as follows:

3 (3) Notwithstanding subparagraph (2), firearms or
4 ammunition ~~with an aggregate fair market value equal to or~~
5 ~~less than five hundred dollars shall be deposited with the~~
6 ~~department of public safety. The firearms or ammunition may~~
7 ~~be held by the department of public safety and~~ seizing agency
8 shall be used for law enforcement, testing, or comparisons
9 by the criminalistics laboratory of the department of public
10 safety, or ~~may be destroyed,~~ or disposed of by the ~~department~~
11 ~~of public safety in accordance with~~ seizing agency using the
12 same rules and procedures established in section 809.21,
13 subsection 2.

14 Sec. 2. Section 809.21, Code 2013, is amended to read as
15 follows:

16 **809.21 Sale of certain ammunition and firearms.**

17 1. Ammunition and firearms seized by the department of
18 public safety which are not illegal and which are not offensive
19 weapons as defined by section 724.1 may be sold by the
20 department of public safety at public auction. The firearms or
21 ammunition may also be held by the department of public safety
22 and used for law enforcement, testing, or comparisons by the
23 criminalistics laboratory, or destroyed, or disposed of in
24 accordance with this section. The department of public safety
25 may sell at public auction forfeited legal weapons received
26 from the director of the department of natural resources,
27 except that rifles and shotguns shall be retained by the
28 department of natural resources for disposal according to its
29 rules.

30 2. The sale of ammunition or firearms which are not illegal
31 and which are not offensive weapons as defined by section
32 724.1, pursuant to this section shall be made only to federally
33 licensed firearms dealers or to persons who have a permit
34 to purchase the firearms. Persons who have not obtained a
35 permit may bid on firearms at the public auction. However,

1 persons who bid without a permit must post a ~~fifty percent of~~
2 ~~purchase price~~ fifty-percent-of-purchase-price deposit with the
3 commissioner of public safety on any winning bid. No transfer
4 of firearms may be made to a person bidding without a permit
5 until such time as the person has obtained a permit. If the
6 person is unable to produce a permit within two weeks from the
7 date of the auction, the person shall forfeit the ~~fifty percent~~
8 fifty-percent deposit to the department of public safety. All
9 proceeds of a public auction ~~pursuant to this section~~ conducted
10 by the department, less department expenses reasonably
11 incurred, shall be deposited in the general fund of the state.
12 The department of public safety shall be reimbursed from the
13 proceeds for the reasonable expenses incurred in selling the
14 property at the auction.

15 Sec. 3. Section 809A.17, subsection 5, paragraph b, Code
16 2013, is amended to read as follows:

17 b. Forfeited property which is a weapon or ammunition
18 shall be deposited with the ~~department of public safety to be~~
19 ~~disposed of in accordance with the rules of the department~~
20 seizing agency. All weapons or ammunition may be held
21 for use in law enforcement, testing, or comparison by the
22 criminalistics laboratory, or destroyed. Ammunition and
23 firearms which are not illegal and are not offensive weapons
24 as defined by section 724.1 may be sold by the ~~department as~~
25 provided seizing agency using the same rules and procedures in
26 section 809.21, subsection 2.

27 EXPLANATION

28 This bill relates to the disposition of legal firearms and
29 ammunition seized by a law enforcement agency.

30 Current law requires that all abandoned, seized firearms
31 and ammunition with an aggregate value of less \$500 be
32 transferred to the department of public safety for use in law
33 enforcement, testing, or for comparisons by the criminalistics
34 laboratory, or destroyed, or sold at public auction pursuant
35 to Code section 809.21. If the value of a seized firearm or

1 ammunition is greater than \$500 in the aggregate, Code section
2 809.5(1)(f)(1) requires the property to be forfeited pursuant
3 to the procedures established in Code chapter 809A.

4 Under the bill, a law enforcement agency that seizes a
5 firearm or ammunition becomes the owner of the firearm or
6 ammunition, if the aggregate value of the firearm or ammunition
7 is less than or equal to \$500 and the firearm or ammunition
8 is deemed abandoned pursuant to Code section 809.5. The bill
9 further provides that the seizing agency may use the firearm or
10 ammunition for law enforcement or testing, or loan or transfer
11 the firearm or ammunition to the department of public safety
12 for comparisons by the criminalistics laboratory, or destroy
13 the firearm or ammunition, or sell the firearm or ammunition
14 pursuant to the rules and procedures established in newly
15 designated Code section 809.21(2).

16 Current law requires all forfeited weapons and ammunition
17 with an aggregate value of more than \$500 to be transferred to
18 the department of public safety for use in law enforcement,
19 testing, or used for comparisons by the criminalistics
20 laboratory, to be destroyed, or to be disposed of pursuant to
21 the procedures established in Code section 809A.17(5)(b).

22 The bill requires forfeited firearms or ammunition to be
23 transferred to the seizing agency. The bill further provides
24 that the seizing agency may use a forfeited firearm or
25 ammunition for law enforcement, testing, or loan or transfer
26 to the department of public safety for comparisons by the
27 criminalistics laboratory, or that the firearm or ammunition
28 be destroyed, or disposed of pursuant to the procedures
29 established for the department of public safety in newly
30 designated Code section 809.21(2).

31 The bill does not restrict the use of the proceeds from
32 the sale of seized firearms or ammunition by a local law
33 enforcement agency. Current law and the bill provide that
34 the proceeds from the sale of firearms or ammunition by the
35 department of public safety in Code section 809.21, less

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1 expenses, be deposited into the general fund of the state.